IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8045 OF 2005

Mr. Jalil Hasan Shaikh ..Petitioner

Vs.

1. Shivbhakti Narayan Maharaj
Shikshan Mandal and ors. ..Respondents

Mr. Mandar Limaye for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : December 06, 2007.

P.C.:

1. Heard the learned counsel for the petitioner who is aggrieved by the Judgment and Order dated 21/6/2005 rendered by the School Tribunal at Nasik and thereby dismissing Appeal No. 46 of 2004 filed under Section 9 of the M.E.P.S. Act, 1977 by the petitioner.

2. The petitioner had contended that he possesses

the qualification of M.A.B.Ed and he was appointed for the first time by an order dated 25/8/1999 and he was illegally terminated from service with effect from 12/6/2004. The management appeared before the School Tribunal and pointed that the petitioner was appointed every time on temporary basis and he was not appointed against any permanent vacancy. It was further pointed out that the respondent no.4 - Education Officer had by his letter dated 12/5/2004 pointed out that there would be surplus Assistant Teachers and there was a backlog of reserved category of four teachers. It was further pointed out that every time the petitioner was issued an appointment order, the Education Officer had granted approval for such appointment for a specific period and, therefore, the petitioner did not attain status of permanent employee. As per the management Section 5 of the M.E.P.S. Act was not applicable in the disqualification of the petitioner.

3. The School Tribunal referred to the appointment orders issued in response to the applications made by the petitioner. The petitioner’s applications were dated 25/8/99, 12/6/2000, 8/8/2001,

13/6/2002 and 1/7/2003. Each of these applications was with a request to reappoint him for whatever period possible and consequently appointment letters dated 25/8/99, 12/6/2000, 11/6/2001, 13/6/2002 and 10/6/2003 were issued. The first appointment order was for the period from 26/8/1999 to 30/4/2000, the second appointment order was for the period from 12/6/2000 to 30/4/2001, the third appointment order was for the period from 11/6/2001 to 30/4/2002, the fourth appointment order was for the period from 14/6/2002 to 30/4/2003 and the last appointment order was for the period from 11/6/2003 to 30/4/3004. These appointment orders indicated that the petitioner was appointed for each academic year and it was known to him that his appointment was only for a specific period. Whether his appointment is against a reserved vacancy was a disputed question. The petitioner was never appointed on probation and every time he was issued an appointment order in response to his applications. He was aware that his appointment was for a specific period. The School Tribunal referred to a decision of this court in the case of Akbar Peerbhoy College and ors. vs. Mrs. Pramila N.

Kutty and ors. [1997 (3) Mh.L.J. 195] and held that the services of the petitioner came to an end automatically on expiry of fixed period of appointment and there was no termination of his service, leave aside illegal termination of service. The view taken by the Tribunal cannot be termed as perverse or patently erroneous so as to call for interference under Article 227 of the Constitution.

4. Hence, the petition is rejected summarily.

(B.H. Marlapalle,J.)